



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 9, 1998

Ms. Christine Mirbagheri
Assistant City Attorney
Criminal Law and Police Division
Office of the City Attorney
Municipal Building
Dallas, Texas 75201

OR98-1625

Dear Ms. Mirbagheri:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your requests were assigned ID#s 116518 and 116794.¹

The City of Dallas (the "city") received two requests for various categories of information, including city-wide "crime summaries," concerning specified locations and person(s). In response to the request, you submit to this office for review a representative sample of the information at issue.² You state the "offense reports where there is no pending investigations have been released." Gov't Code §§ 552.108, 552.007 (city may release all or part of information that is not otherwise confidential by law). You claim, however, that the remaining requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

¹We have combined these two related requests, because the same requestor seeks similar or related information subject to the same claimed exception.

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Section 552.108 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

....

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

According to your brief to this office, the city is "requesting not to release this information under Section 552.108 because the investigation 'did not result in conviction or deferred adjudication.'" A governmental body claiming section 552.108(a)(2) should demonstrate that the requested information relates to a concluded criminal investigation that has come to some type of final *result*, such as dismissal of the case, other than a conviction or deferred adjudication.

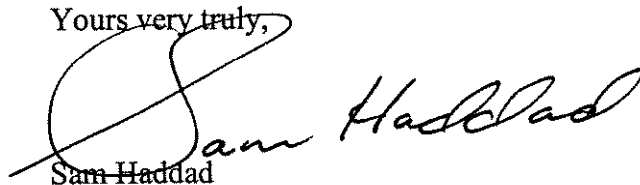
In this instance, you have provided this office with a letter from the attorney who is prosecuting the "still pending" cases for the Dallas County District Attorney, asking that the requested information be withheld. See Open Records Decision No. 586 (1991). Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. See Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). As it appears that the requested records relate to pending criminal prosecutions, we conclude that the release of the requested information would interfere with the detection, investigation, or prosecution of crime and thus, it is excepted from disclosure under section 552.108(a)(1) of the Government Code.

We note, however, that "basic information about an arrested person, an arrest, or a crime" is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report. See generally *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177

(Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Therefore, we conclude that, except for the front page information, the city may withhold the requested information from disclosure under section 552.108(a)(1).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,


Sam Haddad
Assistant Attorney General
Open Records Division

SH/mjc

Ref.: ID# 116518 and ID# 116794

Enclosures: Submitted documents

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(w/o enclosures)